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10/689,510	10/21/2003	Eugenio Cruz Garcia	5724.017.23.US	8656
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MCKENNA LONG & ALDRIDGE LLP			CHAPMAN, JEANETTE E	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/689,510	GARCIA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jeanette E. Chapman	3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 February 2009.
- 2a) This action is **FINAL**.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-62 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/4/04, 6/10/05, 7/29/05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____ .                        |

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 10-18, 25-32, 40-43, 50-72 are rejected under 35 U.S.C. 102(b) as being anticipated by Ormiston (5755068), figure 15

Claim 1.

Ormiston discloses a flooring system, comprising: a unitary flooring plank 12k comprising: a plurality of sides defining a perimeter; a plurality of edge patterns 30k, each edge pattern 30k arranged proximate at least one first portion of the perimeter at a corresponding one of the sides, wherein at least two of the plurality of edge patterns 30K, figure 15, are substantially identical; and at least one bulk pattern 18k arranged adjacent the plurality of edge patterns 30k and proximate at least one second portion of the perimeter, wherein elements of at least one bulk pattern 18k and elements of an edge pattern 30k adjacent the at least one bulk pattern 18k correspond in location and orientation to form a substantially continuous pattern across the bulk pattern and the edge pattern adjacent the at least one bulk pattern.

Claim 2.

Ormiston discloses the plank according to claim 1, wherein at least one edge pattern 30k comprises a decorative motif. See column 5, lines 24-35

Claim 3.

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Ormiston discloses the plank according to claim 1, wherein at least one bulk pattern<sup>18k</sup> comprises a decorative motif.

Claim 10.

Ormiston discloses the plank according to claim 1, wherein the at least one first portion and the at least one second portion of the perimeter constitute the perimeter. See figure 3

Claim 11.

Ormiston discloses the plank according to claim 1, wherein the plurality of edge patterns<sup>30k</sup> are formed on the at least one first portion of the perimeter.

Claim 12

Ormiston discloses at least one edge pattern<sup>30k</sup> extends away from the perimeter by a predetermined distance. See figure 15

Claim 13.

The predetermined distance has been considered a matter of choice since values outside of the recited value/range have not been shown to function inferiorly

Claim 14

Ormiston discloses the plank according to claim 1, wherein at least one edge pattern<sup>30k</sup> extends along at least a portion of at least one of the plurality of sides. See figures 3 and 15.

Claim 15.

Ormiston discloses The plank according to claim 1, wherein the plurality of edge patterns<sup>30k</sup> extend along an entirety of at least one of the plurality of sides. See figures 3 and 15

Claim 16.

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Ormiston discloses a flooring system, comprising: at least two unitary planks adjacent each other along a predetermined direction, wherein each plank comprises: a plurality of sides defining a perimeter; a plurality of edge patterns 30k arranged proximate at least one first portion of the perimeter, wherein at least two of the plurality of edge patterns 30k are substantially identical; and at least one bulk pattern 18k arranged adjacent the plurality of edge patterns and proximate at least one second portion of the perimeter wherein elements of at least one bulk pattern 18k and elements of an edge pattern 30k adjacent the at least one bulk pattern 18k correspond with each other in orientation and position to form a substantially continuous pattern; wherein elements of the edge patterns 30k of two of the at least two planks correspond with each other in location and orientation to form a substantially continuous pattern crossing the two of the at least two planks 12k , and wherein the bulk pattern 18k in a first of the at least two planks 10 and the bulk pattern in the second of the at least two planks 12 are different. See figure 1, 10, 12 and 13

claim 17.

Ormiston discloses a plank according to claim 16, wherein at least one edge pattern 30k comprises a decorative motif. See column 5 lines 24-50.

Claim 18.

Ormiston discloses a plank according to claim 16, wherein at least one bulk pattern 18k comprises a decorative motif.

Claim 25.

Ormiston discloses a plank according to claim 16, wherein the at least one first portion and the at least one second portion of the perimeter constitute the perimeter. See figure 1 and 3.

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Claim 26.

Ormiston discloses a plank according to claim 16, wherein the plurality of edge patterns 30k are formed on the at least one first portion of the perimeter.

Claim 27.

Ormiston discloses a plank according to claim 26, wherein at least one edge pattern 30K extends away from the perimeter by a predetermined distance.

Claim 28.

The predetermined distance has been considered a matter of choice since values outside of the recited value/range have not been shown to function inferiorly

Claim 29.

Ormiston discloses a plank according to claim 16, wherein at least one edge pattern 30k extends along at least a portion of at least one of the plurality of sides.

Claim 30.

Ormiston discloses a plank according to claim 16, wherein the plurality of edge patterns 30k extend along an entirety of at least one of the plurality of sides.

Claim 31.

Ormiston discloses a flooring system according to claim 16, further comprising a tongue 33k extending from the perimeter of one edge of each plank and a groove 31k running along the perimeter of the opposite edge of each plank, wherein any of said grooves is capable of receiving any of said tongues 33k.

Claim 32.

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Ormiston discloses the flooring system according to claim 31, wherein only planks arranged in a direction such that the tongue 33k of one planks fits into the groove 31k of an adjacent plank fit together.

Claim 40.

Ormistan discloses a plank according to claim 33, wherein the plurality of edge patterns 30k extend away from the perimeter by a predetermined distance.

Claim 41.

The predetermined distance has been considered a matter of choice since values outside of the recited value/range have not been shown to function inferiorly

Claim 42.

Ormistan discloses a plank 12k according to claim 33, further comprising a tongue 33k extending from the perimeter of one edge of the plank 12k and a groove 31k running along the perimeter of the opposite edge of the plank, wherein said groove is capable of receiving said tongue.

Claim 43.

Ormiston discloses the plank according to claim 33, wherein the tongue 33k interconnects with a groove 31k of an adjacent plank.

Claim 50.

Ormiston discloses a laminate flooring system, comprising: a plurality of unitary flooring panels including at least a first, second, and third unitary flooring planks, 10, 12,12 , figure 1 each of said unitary flooring planks having: a rectangular shape having first and second short sides and first and second long sides; the rectangular shape having two rows of strips; the first row having

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a first strip, said first strip being an unbroken complete strip 32A; and the second row having a second partial strip and a third partial strip 34A, and 32B the second and third partial strips having a continuous edge pattern 30k along an edge of the short side.

Claim 51.

Ormiston discloses the laminate flooring system of claim 50, wherein a pattern of the first strip adjacent a short side of the rectangular shape is not continuous. See figure 3

Claim 52.

Ormiston discloses the laminate flooring system of claim 51, wherein the pattern of the first strip that is not continuous is a bevel. See figure 15

Claim 53

Ormiston discloses The laminate flooring system of claim 50, wherein the third partial strip of the first unitary plank 12 connects to the second partial strip of the second unitary plank 10. See figure 1 and 3

Claim 54.

Ormiston discloses the laminate flooring system of claim 50, wherein the third partial strip of the first unitary plank 10 connects to the second partial strip of the third unitary plank 12. See figure 1

Claim 55.

Ormiston discloses a laminate flooring system of claim 50, wherein the third partial strip 32A or 32B of the first unitary plank 10 connects to the second partial strip 32A/B of the second unitary plank 12 and the second partial strip of the first unitary plank connects to the third partial strip of the third unitary plank 12 see figure 1

Claim 56.

Ormiston discloses the laminate flooring system of claim 55, wherein the second and third unitary planks 12/12 can be interchanged and the edge patterns of the partial strips in the second row of adjacent unitary planks match.

claim 57.

Ormiston discloses the laminate flooring system of claim 50, wherein the combined length of the second and third partial strips is the same as the length of the first strip. See figure 3.

Claim 58.

Ormiston discloses the laminate flooring system of claim 50, wherein all four sides of the first row are beveled. See figures 3,4 and 5

Claim 59.

Ormiston discloses laminate flooring system of claim 50, wherein the second and third partial strips have a bevel 30 between them; and wherein a bevel 30 is between the first strip and the second partial strip and the first strip and the third partial strip.

Claim 60.

Ormiston discloses the laminate flooring system of claim 50, wherein the side of the second partial strip having the continuous edge pattern does not have a bevel and the side of the third partial strip having the continuous edge pattern does not have a bevel. See figures 10,12 and 14 where there is circular square or diamond patterns.

Claim 61.

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Ormiston discloses the laminate flooring system of claim 50, wherein the plurality of unitary flooring panels can be installed in any order to give the appearance of a random pattern of complete strips.

Claim 62.

Ormiston discloses the laminate flooring system of claim 50, wherein each of said unitary flooring planks in said plurality includes an interlocking joint that only allows adjacent planks to be locked together such that first rows of planks are adjacent to other first rows in a direction parallel to the long sides of the rectangular shape of the unitary flooring planks. See figures 1-3 and 15

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-7 and 19-23, 33-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ormiston in view of Hartman et al (1854933)

Claim 4.

Hartman discloses the plank according to claim 1, wherein at least one edge pattern 17comprises an embossed surface texture.

Claim 5

Hartman discloses a plank wherein at least one bulk pattern 18 comprises an embossed surface texture.

Claim 6.

Hartman discloses the plank according to claim 1, wherein at least one edge pattern 17 comprises an embossed surface texture in registration with a decorative motif.

Claim 7.

Hartman et al discloses a plank according to claim 1, wherein at least one bulk pattern 16/18 comprises an embossed surface texture in registration with a decorative motif.

Claim 19

Hartman discloses a plank wherein at least one edge pattern 17 comprises an embossed surface texture.

Claim 20.

Hartman discloses a plank according to claim 16, wherein at least one bulk pattern 18 comprises an embossed surface texture.

Claim 21.

Hartman discloses a plank according to claim 16, wherein at least one edge pattern 17 comprises an embossed surface texture in registration with a decorative motif.

Claim 22.

Hartman discloses a plank according to claim 16, wherein at least one bulk pattern 16/18 comprises an embossed surface texture in registration with a decorative motif.

Claim 23.

Hartman discloses a plank according to claim 16, wherein at least one edge pattern 17 comprises an embossed surface texture out of registration with a decorative motif.

Claim 33.

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Ormiston discloses a flooring system, comprising: a unitary flooring panel 12k having a plurality of sides defining a perimeter; a surface 18k of the unitary flooring panel having thereon a decorative motif, said decorative motif comprising at least two edge patterns 30k adjacent each of the sides of the panel and at least one bulk pattern 18k in the interior of the panel and adjacent the edge pattern on each side, said edge patterns 30k and said bulk pattern 18k being different, wherein at least one edge pattern 30k along a side is substantially identical to the edge pattern in a corresponding position along an opposite side; and wherein at least one portion of the decorative motif along a side is substantially different from the corresponding portion of the decorative motif along an opposite side. See figure 1 and elements 10 and 12.

One could say that Ormiston discloses at least a portion of the edge patterns 30K are substantially coplanar with the bulk pattern: Because it is unclear as to what constitutes/defines the meets and bounds of the term “substantially”

However, Hartman more accurately discloses the structure as applicant intended though not accurately claimed. Hartman discloses at least a portion of the edge patterns 17 are substantially coplanar with the bulk pattern. It would have been obvious to include the substantially planar edge portions to provide an alternative appearance to the flooring of Ormiston

Claim 34.

Hartman discloses the plank according to claim 33, wherein the plurality of edge patterns 17 comprise an embossed surface texture.

Claim 35.

Hartman discloses the plank according to claim 33, wherein the at least one bulk pattern 16/18 comprises an embossed surface texture.

Claim 36.

Hartman discloses the plank according to claim 33, wherein the plurality of edge patterns 17 comprise an embossed surface texture in registration with a decorative motif

Claim 37.

Hartman discloses a plank according to claim 33, wherein the at least one bulk pattern 16/18 comprises an embossed surface texture in registration with a decorative motif.

In view of the above it would have been obvious to impart an embossed surface to the flooring in order to simulate actual flooring as shown by Hartman.

Claims 8-9, 24, 38-39, 44-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ormiston in view of Neuman (4299069).

Claim 8.

Neuman discloses the plank according to claim 1, wherein at least one edge pattern comprises an embossed surface texture 24 out of registration with a decorative motif.

Claim 9.

Neuman discloses the plank according to claim 1, wherein at least one bulk pattern 24 comprises an embossed surface texture out of registration with a decorative motif.

In view of the above it would have been obvious to impart an embossed surface to the flooring in order to simulate actual flooring as shown by neuman.

Claim 24.

Neuman discloses a plank according to claim 16, wherein at least one bulk pattern comprises an embossed surface texture 24 out of registration with a decorative motif.

Claim 38.

Neuman disclose a plank according to claim 33, wherein the plurality of edge patterns 24 comprise an embossed surface texture out of registration with a decorative motif.

Claim 39.

Neuman discloses a plank according to claim 33, wherein the at least one bulk pattern 24 comprises an embossed surface texture out of registration with a decorative motif.

Claim 44.

Ormiston discloses a laminate flooring system comprising: a first unitary flooring plank 12, the first unitary flooring plank having: a rectangular shape having first and second short sides and first and second long sides figure 1; and the rectangular shape having first and second rows of strips 32A, figures 1-2, wherein the first and second rows have the same length as each other; wherein the first row has a full unbroken strip; and wherein the second row has at least two partial strips; and wherein an edge pattern on an edge 30k of the second row adjacent the first short side and an edge pattern along an edge of the second row adjacent the second short side are the same as each other and are continuous. See figures 1 and 3

Ormiston discloses various patterns for the rectangular strip but lacks the first and second rows are aligned with each other such that a portion of the outer edges of the first and second rows cooperatively define a perimeter of the rectangular shape

Neuman discloses a laminate flooring system comprising:

a first unitary flooring plank, shown in figure 1

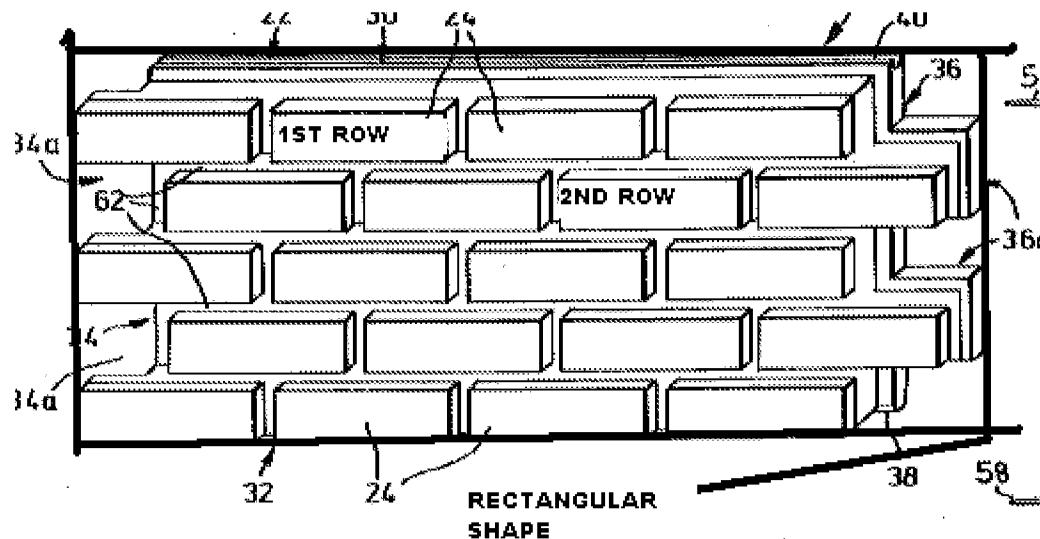
the first unitary flooring plank having:

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a rectangular shape having first and second short sides 34 and 36 and first and second longsides 30 and 32; and

the rectangular shape having a first row and a second rows row of strips 24,

wherein the first and second rows have the same length as each other and are aligned with each other such that a portion of the outer edges of the first and second rows cooperatively define a perimeter of the rectangular shape; see annotated copy below. It would have been obvious to modify Ormiston in view of Neuman for ease of transporton and construction.



Claim 45.

Ormiston disclose laminate flooring system of claim 44, further comprising: a second unitary flooring plank 10 having a rectangular shape, the rectangular shape of the second flooring plank having first and second short sides and first and second long sides; and the rectangular shape having first and second rows of strips, wherein the first and second rows have the same length as

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each other; wherein the first row has a full unbroken strip; wherein the second row has at least two partial strips; see figures 1 and 3 wherein an edge pattern on an edge of the second row adjacent the first short side and an edge pattern along an edge of the second row adjacent the second short side are the same as each other and are continuous; and wherein the edge patterns of the second row in the first unitary plank are continuous with as the edge patterns of the second row of the second unitary plank.

Claim 46.

Ormiston discloses the laminate flooring system of claim 45, wherein the first unitary flooring plank 12 connects with the second unitary flooring plank 10; and wherein the full unbroken strip of the first flooring plank connects with the complete strip of the second flooring plank. See figure 1

Claim 47.

Ormiston discloses the laminate flooring system of claim 45, wherein the second row of the first unitary flooring plank has a first and second partial strip 32A 32B and the second row of the second unitary flooring plank has a first and second partial strip; wherein the second partial strip of the first unitary flooring plank connects to the first partial strip of the second unitary flooring plank. See figures 1 and 3

Claim 48.

Ormiston discloses the laminate flooring system of claim 44, wherein the full unbroken strip 32A, the first partial strip, and the second partial strip 34A of the first unitary flooring plank are separated by bevels 30 embossed into the surface of the first unitary flooring plank.

Claim 49.

Ormiston discloses The laminate flooring system of claim 45, wherein the full unbroken strip 32A, the first partial strip 34A, and the second partial strip 32B of the second unitary flooring plank are separated by bevels 30 embossed into the surface of the second unitary flooring plank. Applicant's arguments are moot in view of the new ground of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E. Jeanette whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-thursday, 8:30-6:00, every fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JEANETTE CHAPMAN/  
PRIMARY EXAMINER  
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